

REMARKS

This responds to the Office Action mailed on January 10, 2008.

Claims 1, 7, 14, 18, 25 and 41-45 are amended, claims 5 and 26-40 are canceled, and claims 47-53 are added; as a result, claims 1-4, 6-25, and 41-53 are now pending in this application.

Information Disclosure Statement

Applicants submitted a Supplemental Information Disclosure Statement and a 1449 Form on September 22, 2006. Applicants respectfully request that initialed copies of the 1449 forms be returned to Applicants' Representatives to indicate that the cited references have been considered by the Examiner.

§112 Rejection of the Claims

Claims 41-45 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Responsive to the rejection, Applicants have amended claims 41-45 to include the limitations previously cancelled from independent claim 1.

Interview

A telephonic interview was held on May 28, 2008. Applicants' attorney Mark Vatuone and Examiner Robert Pond were present on the telephone call. No exhibits were submitted. The claims were broadly discussed in view of the cited references. No agreement was reached.

§103 Rejection of the Claims

Claims 7-10, 12, 14-16, 18-22, 24, 31-34 and 36-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Paper #20070530, PTO-892, item: U (hereinafter eBay).

Applicants respectfully submit that the rejection of the aforementioned claims under 35 U.S.C. § 103 is defective for the reason that prior art references when combined do not teach or suggest all of the claim limitations of the independent claims of the present application.

Applicable Law

In rejecting claims under 35 U.S.C. §103, the Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. See M.P.E.P. §2142. Further, to establish *prima facie* obviousness there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."¹

Argument

Applicant believes that the issue of patentability over eBay is best understood with regard to the limitations of amended claim 1. Claim 1, as amended, requires the following:

generating a map file to store a first plurality of records, the first plurality of records respectively storing summarizing information for a first plurality of offerings, the first plurality of offerings including a second plurality of offerings, the first plurality of records including a second plurality of records, the second plurality of records respectively storing summarizing information for the second plurality of offerings, the second plurality of records are grouped to facilitate a reduction in processing to retrieve the second plurality of records;

The Final Office Action, in rejecting claim 1 without the present amendment points to eBay. eBay relates a series of user interfaces to browse and search for items.

Claim 1, as amended, requires "generating a map file to store a first plurality of records, ...the first plurality of records including a second plurality of records,... the second plurality of records are grouped to facilitate a reduction in processing to retrieve the second plurality of records." In contrast, eBay merely relates a series of user interfaces that are used to browse and search for items without relating any of the processing that is required to generate the user interfaces. Moreover, a comparison of the subject matter contained in eBay with the above quoted portion of claim 1 will confirm that additional limitations may be found in claim 1 that are not related or suggested by eBay. For these reasons eBay fails to teach or suggest the limitations of claim 1.

¹ *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

The above remarks are also applicable to a consideration of independent claims 7, 14, 18, 31 and 37.

Claims 8-10 and 12 depend on independent claim 7. Claims 15-17 depend on independent claim 14. Claims 19-22 and 24 depend on independent claim 18. Claims 32-34 and 36 depend on independent claim 31. As dependent claims are deemed to include all limitation of claims from which they depend, the rejection of claims 8-10, 12, 15-17, 19-22, 24, 32-34, 36 and 38-40 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

Claims 4 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay in view of Applicant's Admission (regarding parsing of universal resource locators).

Claim 4 depends on independent claim 1. Claim 28 depends on independent claim 25 and the above remarks are also applicable to a consideration of independent claim 25.

Applicants respectfully submit that the rejection of the aforementioned claims under 35 U.S.C. § 103(a) is defective for the reason that the alleged Admission also fails to teach or suggest the above quoted limitations of claim 1 as discussed in the above remarks which are also applicable to a consideration of independent claim 25. Accordingly, eBay, whether considered separately, or combination with the alleged admission, fails to teach or suggest each and every limitation of independent claims 1 and 25 as is required to support a *prime facie* case of obviousness. As dependent claims are deemed to include all limitation of claims from which they depend, the rejection of claims 4 and 28 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

Claims 11, 23 and 35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay in view of McClenahan (PTO-892, Item:V).

Claims 11, 23 and 35 respectively depend on independent claims 1, 18 and 31.

Applicants respectfully submit that the rejection of the aforementioned claims under 35 U.S.C. § 103(a) is defective for the reason that McClenahan also fails to teach or suggest the above quoted limitations of claim 1, as discussed in the above remarks, which are also applicable to a consideration of independent claims 18 and 31. Accordingly, eBay, whether considered

separately or in combination with McClenahan, fails to teach or suggest each and every limitation of independent claims 1, 18 and 31 as is required to support a *prime facie* case of obviousness under 35 U.S.C. § 103. As dependent claims are deemed to include all limitation of claims from which they depend, the rejection of claims 11, 23 and 35 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

Claim 13 was rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay in view of Pollick (Paper # 20041209, PTO-892, Item: VV).

Claim 13 depends on independent claim 7.

Applicants respectfully submit that the rejection of the aforementioned claims under 35 U.S.C. § 103 is defective for the reason that Pollick also fails to teach or suggest the above quoted limitations of claim 1 as discussed in the above remarks which are also applicable to a consideration of independent claim 7. Accordingly, eBay, whether considered separately or in combination with Pollick, fails to teach or suggest each and every limitation of independent claims 1 and 7 as is required to support a *prime facie* case of obviousness in rejecting of the independent claims of the present application under 35 U.S.C. § 103. As dependent claims are deemed to include all limitation of claims from which they depend, the rejection of claim 13 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

Claims 1-3, 6, 25-27 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay Internet Archive Wayback Machine (PTO-892, Item: U; hereinafter "eBay").

Claims 2 and 3 depend on independent claim 1. Claim 6 depends on independent claim 7. Claims 26, 27 and 30 depend on independent claim 25.

Applicants respectfully submit that the rejection of the aforementioned claims under 35 U.S.C. § 103 is defective for the reason that eBay fails to teach or suggest the above quoted limitations of claim 1 as discussed in the above remarks which are also applicable to a consideration of independent claim 25. As dependent claims are deemed to include all limitation

of claims from which they depend, the rejection of claims 2-3, 6, 26, 27 and 30 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

Claims 17 and 40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over eBay.

Claim 17 depends on independent claim 14 and claim 40 depends on independent claim 1.

Applicants respectfully submit that the rejection of the aforementioned claims under 35 U.S.C. § 103 is defective for the reason that eBay fails to teach or suggest the above quoted limitations of claim 1 as discussed in the above remarks which are also applicable to a consideration of independent claims 14. As dependent claims are deemed to include all limitation of claims from which they depend, the rejection of claims 17 and 40 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action, however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4046 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date June 10, 2008

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10 day of June, 2008.

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Signature